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MARSHALL GERSTEIN

## NOTICE OF ALLOWANCE AND FEE(S) DUE

04743 7590 03/25/2003  
MARSHALL, GERSTEIN & BORUN  
6300 SEARS TOWER  
233 SOUTH WACKER  
CHICAGO, IL 60606-6357

EXAMINER	
JARVIS, WILLIAM R A	
ART UNIT	CLASS-SUBCLASS
1614	514-239200

DATE MAILED: 03/25/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,344	01/04/2002	Erik H.F. Wong	6248.6	7911

TITLE OF INVENTION: METHOD OF TREATING FIBROMYALGIA AND OTHER SOMATOFORM DISORDERS WITH A HIGHLY SELECTIVE  
NOREPINEPHRINE REUPTAKE INHIBITOR

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1300	\$300	\$1600	06/25/2003

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT.  
**PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS.  
THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON  
PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE  
MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY  
PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT  
FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT)  
MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS  
ABANDONED.

## HOW TO REPLY TO THIS NOTICE:

Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current  
SMALL ENTITY status:A. If the status is the same, pay the TOTAL FEE(S) DUE shown  
above.B. If the status is changed, pay the PUBLICATION FEE (if required)  
and twice the amount of the ISSUE FEE shown above and notify the  
United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now  
claiming SMALL ENTITY status, check the box below and enclose  
the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.☐ Applicant claims SMALL ENTITY status.  
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with  
your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be  
completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be  
completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to  
Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of  
maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **Notice of Allowability**

Applicant(s)

10/037,344

Examiner

William R. Jarvis

Applicant(s)

WONG ET AL.

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to paper no. 5, filed 18 March 2003.

2. ☒ The allowed claim(s) is/are 1-17, 32-37, 39, 40 and 54-67.

3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some\* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

(a) ☐ The translation of the foreign language provisional application has been received.

6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

8. ☐ CORRECTED DRAWINGS must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.

) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.

(c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## **Attachment(s)**

1 ☐ Notice of References Cited (PTO-892)

3 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

5 ☒ Information Disclosure Statements (PTO-1449), Paper No. 2,4.

7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

2 ☐ Notice of Informal Patent Application (PTO-152)

4 ☐ Interview Summary (PTO-413), Paper No. \_\_\_\_\_.

6 ☐ Examiner's Amendment/Comment

8 ☒ Examiner's Statement of Reasons for Allowance

9 ☐ Other

William R. Jarvis  
Primary Examiner  
Art Unit: 1614

Application/Control Number: 10/037,344  
Art Unit: 1614

### REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: After a careful search of issued patents and relevant commercial databases and after consideration of applicant's submitted information disclosure statements, no references were found that would either anticipate or make obvious applicant's claimed invention. Although applicant's preferred compound reboxetine was known at the time of applicant's invention, it was not known that reboxetine and other selective norepinephrine reuptake inhibitors were effective in treating fibromyalgia and other somatoform disorders. Accordingly, this application is allowed to issue.

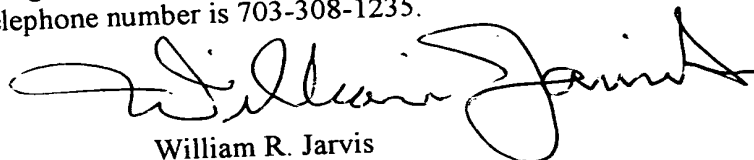
Applicant should note that the petition to correct inventorship has been entered prior to allowance of the application.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William R. Jarvis whose telephone number is 703-308-4613. The examiner can normally be reached on Monday, Tuesday, Thursday & Friday 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne C. Seidel can be reached on 703-308-4725. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.



William R. Jarvis  
Primary Examiner  
Art Unit 1614

wrj  
March 23, 2003